

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JOHNNY LEE GREGORY,

Petitioner,

v.

RICK THALER,

Director, Texas Dep't of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:10-CV-281

REPORT AND RECOMMENDATION TO DISMISS
PETITION FOR A WRIT OF HABEAS CORPUS

Before the Court is petitioner JOHNNY LEE GREGORY'S Petition for a Writ of Habeas Corpus. It appears petitioner pled guilty to possession of drugs in Wichita County in 2007 and received six years' incarceration. In the instant petition, petitioner does not challenge the conviction itself but rather avers the Texas Department of Criminal Justice (TDCJ) has violated his constitutional right by denying him release on mandatory supervision when he is eligible for such release.

Upon review of this case, it appeared petitioner had been released from incarceration. Communication with TDCJ confirms petitioner was released on mandatory supervised release on November 15, 2011. The Court sent to petitioner an order directing him to advise the Court whether he wished to pursue this matter. The Court's order was returned to the Court as undeliverable.

Petitioner has challenged TDCJ's failure to release him on mandatory supervised release. It appears, since filing the habeas corpus petition, TDCJ has in fact released petitioner. Petitioner has failed to communicate with the Court since his release, and has failed to notify the Court of his forwarding address. Consequently, it appears petitioner has received the relief he hoped to attain via the instant petition and has, furthermore, abandoned these claims.

RECOMMENDATION

Petitioner has abandoned his petition. Therefore, it is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the Petition for Writ of Habeas Corpus by a Person in State Custody filed by petitioner JOHNNY LEE GREGORY be DISMISSED.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 3rd day of January 2013.


CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). **Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1), *as recognized in ACS Recovery Servs., Inc. v. Griffin*, 676 F.3d 512, 521 n.5 (5th Cir. 2012); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).